TRS MEMBERS' NEWSLETTER

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OUR BOARD MEMBERS

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The newest member of the Teachers' Retirement Board is Mr. Scott Dubbs. Mr. Dubbs fills the vacancy left on the Board when Mr. Joe Cross retired.

Mr. Dubbs is the Principal at Fergus High School in Lewistown, Montana. He earned both his Bachelors and Masters of Education degrees from Montana State University in Bozeman. His undergraduate work included a double major in Physical Education and General Science and his graduate major was in Secondary Administration and Curriculum. Scott is an active member and former president of the Montana Association of Secondary School Principals, as well as a former president of the School Administrators of Montana. He started his educational career in Harlowton as a science teacher and basketball coach and has worked as a secondary principal and activities director in both Arlee and Lewistown; Scott is also a member of various other state, community and professional organizations. His hobbies include family, outdoor pursuits such as hunting and fishing, as well as observing high school and college sporting events. Mr. Dubbs' term expires July 1, 2003.

WORKING RETIREES

If you plan to teach after retiring, there are several things that you must remember in order to protect your retirement benefits. You may earn, without loss of retirement benefits, and amount not to exceed the greater of: (1) one-third (1/3) of the sum of your average final compensation plus normal annual salary increases granted teaching personnel in the district from which they retired; or (2) one-third (1/3) of the median average final compensation for members retired during the preceding fiscal year as determined by the retirement Board.

If you are employed in a part-time or substitute position covered by the TRS, you are **not** required to contribute to TRS until you have exceeded the amount you are allowed to earn. If you do exceed the one-third of the median salary or one-third of your average final compensation, your monthly benefit will cease the first of the month in which the earnings exceeded your maximum allowed and you shall be reinstated to active membership status.

TRS retirees are **only** limited in the amount they may earn if employed in a position reportable to the TRS, unless you retired under a disability.

The 1999 legislature clarified a retired member to mean a person who has terminated employment covered under TRS and who has **received** at least one monthly benefit. Because benefits are paid at the end of the month a member must wait at least one month following termination before returning to employment that would normally be covered under TRS.

LEARN NOW ABOUT TRS DEATH BENEFITS TO EASE BURDEN ON BENEFICIARIES

It is not a subject that most people like to think about, but familiarizing yourself with how to request TRS death benefits can greatly ease matters for your beneficiaries at a difficult time in their lives. Therefore, you may wish to share the following process with family members:

1. A close family member should call TRS to report the members' death. Sometimes, a school district or funeral home will help in this process. Please provide the family contact's name, address and telephone number as well as the member's date of death.

2. Within two weeks of being notified, TRS will mail out benefit information and forms. TRS will request a copy of the death certificate for verification purposes. In the case of an active teacher, TRS must receive salary

documentation from the employer to determine the actual benefit to be paid.

3. Upon receipt of all properly completed documents, the death benefit payment will be mailed.

4. Significant delays may occur when important member records are not kept up to date. Therefore, you may avoid this possibility by updating TRS records with the current names and addresses of your beneficiaries. Forms are available from TRS to update or change beneficiary information.

BABY BOOM SOON TO HIT

A record number of retiring members may not be anything new in the years to come. The first wave of baby boomer retirees is expected to hit in the year 2003 and peak in the year 2010. The TRS is planning for these record numbers by enhancing efficiency and increasing processing speed through technological means and by improving customer service.

ARE YOU READY TO RETIRE IN 2000?

We are just about half way through the 1999-2000 school year. If you are planning to or maybe just seriously thinking about retiring at the end of the school year, you should by now have requested and received an estimate of retirement benefits and a retirement application package. There are retirement options that you and your beneficiary will need to decide on and you cannot begin too early to start to understand the options available. The decisions you make at the time of retirement are irrevocable and you will need time to consider and understand each retirement option.

There is not room in this article to touch on each of the decisions members must confront at the time of retirement. However, one of the most important decisions that must be made at least 90 days prior to your date of termination is your decision regarding the options available for including termination pay in the calculation of benefits.

Termination pay includes any form of bona fide vacation leave, sick leave, severance pay, amounts provided under a window or early retirement incentive plan, or other payments contingent on the employee terminating employment. Termination pay does not include amounts that are not wages and amounts that are payable to a member from a plan for deferral of compensation under Section 457(f) of the Internal Revenue Code. Members, who receive termination pay at the time of termination and retire, **must** select **one** of the following options for including termination pay in the calculation of benefits:

OPTION 1 Use the total termination pay in the calculation of the Average Final Compensation (AFC). The retiree and his/her employer shall pay such contributions to TRS as determined by the TRS Board to adequately compensate the system for the additional retirement benefit.

OPTION 2 Use a yearly amount of termination pay added to each of the three consecutive year's salary used in the calculation of the AFC. Termination pay is divided by the total number of years of creditable service to determine a yearly amount. The retiree and his/her employer must pay the regular contribution rate on the termination pay.

OPTION 3 Exclude the termination pay from the calculation of AFC. No contribution is required of either the retiree or the employer. Any contributions reported must be refunded.

Option 1 provides for the largest increase in retirement benefits; however, the employee contribution due under Option 1 can be quite substantial, 70–80% or more of the termination pay received. See the Teachers' Retirement System Handbook for a complete explanation of the termination pay options. Handbooks are available from your employer or on the TRS Internet Website at http://www .trs.doa.state.mt.us/.

The large contribution due under Option 1 can become a financial burden after state, federal, Social Security and any other taxes are deducted. The good news is that you now have available to you an option that has been approved by both the Montana Legislature and the Internal Revenue Service, to elect to defer state and federal income taxes on the employee contributions that are deducted by your employer from termination pay. However, before you can qualify for this favorable tax treatment, there are a few very specific steps that must be followed.

- You **must** complete, sign and submit a “Termination Pay – Irrevocable Election Form” to your employer **at least 90 days** prior to your date of termination. This form is available through the Teachers' Retirement System office or at http://www .trs.doa.state.mt.us/.

- Your employer must also sign and date this form at least 90 days prior to the your date of termination and forward the original form to the office of the Teachers' Retirement System.

- You must terminate **and** receive termination pay at the time of retirement.

The Irrevocable Election Form is not an indication or announcement that you are going to retire at the end of the current school year. At the time of termination and retirement the terms of the election must be followed,

even if you do not retire for several years after you signed the Irrevocable Election Form.
If the "Termination Pay – Irrevocable Election Form" is not properly completed, signed and filed at least 90 days prior to the member's date of termination, the gross amount of termination pay will be subject to all taxes. Any contributions due TRS will also be subject to the limits of Section 415 of the Internal Revenue Code, which limits the contributions that a member may make with after tax dollars to the lesser of $30,000 or 25% of compensation. For the purpose of this calculation, the period for measuring compensation is September 1 through August 31. If contributions are reduced because of Section 415, the amount of termination pay that may be included in the calculation of benefits must also be reduced, which in turn reduces the monthly benefit the member will receive.

Electing to have tax-deferred contributions deducted from termination pay may affect the maximum an employee may contribute to a Tax Sheltered Annuity (TSA) under Internal Revenue Code Section 403(b) or to a Deferred Compensation Plan under Internal Revenue Code Section 457. If a member is contributing to a TSA or a Deferred Compensation Plan, they should contact the plan administrator and request that they calculate the maximum the member may contribute to their plan if they elect to defer state and federal taxes on contributions deducted from termination pay. This calculation is called the Maximum Exclusion Allowance and must be made by the plan administrator or their representative. Neither TRS nor employers are equipped to make these calculations for TRS members.

HELPFUL WEBSITE

The National Council on Teacher Retirement has a good website with lots of helpful information. They can be found at www.nctr.org. We especially liked the section of the site called NCTR'S LIFEPLAN. Visit their site and see all the information they have available.

When completing forms to be returned to the Teachers' Retirement System, please be sure to use **BLACK** ink.

DISABILITY RETIREMENT BENEFIT

Disability retirement is available to any active vested member of TRS who the Board certifies is mentally or physically incapacitated from the further performance of the member's duties and that the incapacity is likely to be permanent. Any member, regardless of age, who has completed five full years of active service in the Montana TRS (Vested), and becomes disabled while an active member may apply for disability retirement benefits.
To apply you must contact TRS and request an estimate of disability retirement benefits. The member will be asked to provide the following information:

1. Date of planned termination.
2. Final year contract earnings.
3. Termination pay amount.
4. Date of birth.
5. Beneficiary date of birth.
6. Number of days to be worked in the final contract year.
7. Amount of any additional earnings.

Within approximately two weeks, an estimate of disability retirement benefits available and the necessary application materials will be mailed to your home address. The materials will include:

1. Estimate of Disability Benefits Available
2. Disability Application.
3. Physicians Statement of Disability.
4. Release of Medical Information
5. Employers' Report to the Teachers' Retirement Board
6. Electronic Fund Transfer Form
7. Federal and State withholding forms.

Once all information has been returned, a physician under contract with TRS will review the medical documentation and issue a determination as to whether, based on the medical record, the member is able to perform their duties. TRS staff will summarize all information received and provide a copy of the physician's report to the TRS Board for consideration. Within 10 days following the TRS board meeting, the disability applicant will receive official notification of the Board's decision.

Upon approval by the Board for disability retirement, the member will receive a benefit based on the number of years of service times 1.6667%, times their Average Final Compensation (years X 1.6667% X AFC compensation) or one-quarter of their Average Final Compensation, whichever results in the higher benefit (1/4 X AFC).

For example, a member with less than 15 years of service would receive 1/4 of their Average Final Compensation. A member with more than 15 years would receive a benefit based on; number of years of service times 1.6667%, times their Average Final Compensation.
If the decision is adverse, the member will be advised that they have thirty days from receipt of the decision to notify the Board, in writing, that they wish to have the board reconsider their request based upon additional information, or that they wish to proceed to a contested case hearing in accordance with 2.44.201 and 2.44.202, ARM, and the Montana Administrative Procedures Act, particularly Title 2, Chapter 4, part 6, Montana Code Annotated.

CONTINUING REQUIREMENTS FOR DISABILITY RETIREES'

Once each year for the first five years following the disability retirement of a member and once in every 3-year period thereafter until age 60, the Board requires the disability retiree to undergo a medical examination by a physician to verify continuation of disability.

Should a disability retiree refuse to submit to a medical examination as required the benefit may be discontinued until the exam is completed. Should the refusal continue for one year, all rights to the disability benefit may be revoked.

ALLOWABLE EARNINGS

If the disability retiree is able to engage in any gainful occupation, the retiree's earnings are limited, without loss of disability benefits, to the greater of:

1. The difference between their retirement allowance an their Average Final Salary.

2. The difference between the median average final salary of those members who retired during the preceding fiscal year and the retirement allowance

If the retiree earned more than allowed the benefit will be reduced.

DEFERRED COMPENSATION EXCLUDED FROM TERMINATION PAY

In December 1998, TRS received a Determination Letter Ruling from the Internal Revenue Service certifying that the Montana TRS was a "Qualified Plan". This determination was made on the condition that several amendments, recommended by tax Counsel, would be passed during the 1999 legislative session. One of the amendments allowed TRS members to continue to include Termination Pay in the calculation of average final compensation. This amendment excludes "Deferred Compensation" as defined under Section 457(f) of the Internal Revenue Code from the definition of Termination Pay. Deferred Compensation under Section 457(f) includes, but is not limited to, any payment that is guaranteed at the time of retirement, which is based upon years of service with the employer. In other words, something that is earned each year but not paid to the employee until they terminate employment.

For example: If an employer promises to pay employees who terminate after they have completed 10 years with the employer, $100 for each year they worked for the employer, the payment would be considered Deferred Compensation under Section 457(f). Therefore, the payment would be excluded from the TRS definition of Termination Pay. However, if the promise included provisions which created a substantial risk of loss, such as requiring the employee to complete at least 10 years but not more than 25 years, then the payment may be considered a bona fide retirement incentive, which may then be Termination Pay, and the TRS member could elect to include the payment in the calculation of average final compensation under Termination Pay Option 1 or 2.

At the time of retirement, each employer is required to certify that any Termination Pay reported to TRS does not include Deferred Compensation as defined under Section 457(f) of the Internal Revenue Code. If there is any question regarding Termination Pay reported and whether Deferred Compensation is included, the employer will be required to provide the TRS with a copy of an IRS Private Letter Ruling or a letter from competent tax Counsel certifying that the payments do not qualify as Deferred Compensation under Section 457(f).

Employees and employers need to be concerned about the proper reporting of Deferred Compensation benefits. This is a very technical area of the tax code and TRS strongly recommends that employers seek advice from tax Counsel and request a Private Letter Ruling if they currently have in place or are considering a retirement incentive that might look more like Deferred Compensation than Termination Pay.

NEW TRS HANDBOOKS

The new handbooks are currently being printed and should be available by January 2000. This new handbook will contain information regarding the changes caused by the 1999 legislation, including changes in the purchase of service.

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Should any information in this newsletter raise any questions of interpretation of the law, the official wording of the laws of Montana will govern.

Upon request, this newsletter can be made available in alternative formats.

This newsletter is also available on the TRS website at www.trs.doa.state.mt.us.